

# **MINUTES OF THE COMMISSION FOR HUMAN RIGHTS**

**February 25, 2011**

**A meeting of the Commission for Human Rights was held in the agency conference room on Friday, February 25, 2011. Present at the meeting were Commissioners Iraida Williams, Rochelle Bates Lee and Alberto Aponte Cardona. Absent were Dr. John B. Susa, Chairman, Alton W. Wiley, Jr., Camille Vella-Wilkinson and Nancy Kolman Ventrone. Commissioner Cardona, called the meeting to order at 12:45 p.m.**

**A motion was made by Commissioner Lee to approve the minutes of January 28, 2011. The motion to approve was seconded by Commissioner Williams and carried.**

**Legislation: A presentation was made by Sapphire Jule King of the International Freedom Coalition on legislation she drafted entitled “Bill of Rights For the Homeless”. A decision on whether the Commission will support her proposed legislation will be discussed at the next Commissioner Meeting .**

**Status Report: Michael D. Évora, Executive Director**

**A written report was handed out. All new information is in bold print.  
The Director reported that he was elected co-facilitator for the Rhode  
Island Civil Rights Roundtable.**

**Case Production Report – Attached**

**Aged Case Report - Attached**

**Outreach Report - Attached**

**Commissioner Meeting -2- February 25, 2011**

## **STATUS REPORT - COMMISSIONERS-**

**GENERAL STATUS:** Cynthia Hiatt, Legal Counsel, reported that Dr. Susa's letter requesting reappointment has been sent to the Governor. Commissioner Lee's letter was signed and will be sent to the Governor and Commissioner Wiley's letter requesting reappointment was approved by him but is not yet signed.

**OUTREACH:** No report at this time.

## **STATUS REPORT - LEGAL COUNSEL by Cynthia M. Hiatt**

**LITIGATION:** Report Attached. New information is in bold.

**LEGISLATION:** Crucial legislation was discussed.

**REGULATIONS:** No report at this time.

**HEARING SCHEDULE:** Discussed

**DECISIONS: No discussion at this time.**

**Commissioner Meeting -3- February 25, 2011**

**The meeting adjourned at 2:05 p.m. The next regular meeting will be March 25, 2011 at 12:30 P.M.**

**Respectfully Submitted,**

**Michael D. Évora  
Executive Director**

**Notes taken by: B. Ross  
EXECUTIVE DIRECTOR'S**

# **REPORT TO COMMISSIONERS**

**25 February 2011**

## **I. BUDGET**

**S = State/General Revenue; F = Federal (EEOC/HUD); T = Total**

	<b>FY 2011</b>	<b>FY 2011</b>	<b>FY 2011</b>	<b>FY 2011</b>	<b>FY 2012</b>
	<b>(Request)</b>	<b>(Gov.Rec.)</b>	<b>(Passed)</b>	<b>(Rev.Req.)</b>	<b>(Request)</b>
<b>S</b>	<b>1,052,721</b>	<b>1,016,877</b>	<b>1,016,877</b>	<b>1,264,214</b>	<b>1,204,098</b>
<b>F</b>	<b>400,268</b>	<b>356,689</b>	<b>356,689</b>	<b>164,367</b>	<b>301,532</b>
<b>T</b>	<b>1,452,989</b>	<b>1,373,566</b>	<b>1,373,566</b>	<b>1,428,581</b>	<b>1,505,630</b>

The Commission's Revised FY 11 and Proposed FY 12 budget requests were submitted to the Governor on October 13. For FY 11, the State Budget Officer has requested a submission realizing a 1.33% reduction in General Revenue. For FY 12, he has requested a submission realizing a 15% reduction in General Revenue (in 5% increments) to "provide the future Governor with some flexibility on choosing cuts". Subsequent to the submission of the budget requests, Robert Bromley, Senior Legislative Fiscal Analyst for the RI Senate, inquired as to the status of the Commission's current lease and its ability to relocate to a state-owned facility. We await word on our annual hearing before House Finance.

## **II. FEDERAL CONTRACTS**

**EEOC – For federal FY 2011 (beginning October 1, 2010), according to EEOC Project Director Marlene Toribio, we have closed 81 co-filed cases (as of January 31, 2011). Our EEOC contract for the fiscal year is as of yet unknown.**

**HUD – For FY 10, according to HUD Project Director Angela Lovegrove, we took in 47 new housing charges, 41 of which were co-filed with HUD. Within this same time period, we processed 48 housing charges, 41 of which were co-filed with HUD.**

**For FY 11, we have taken in 34 new housing charges, 32 of which are co-filed with HUD. Within this same time period, we have processed 35 housing charges, 33 of which were co-filed with HUD.**

### **III. PERSONNEL**

**As reported last month, Susan Pracht, Investigator, will be resigned from her position (effective 2/9/11)). She has chosen to pursue a one-to two-year position as a Volunteer with the Brethren Volunteer Service (BVS). BVS is an international organization analogous to the Peace Corps. On 2/14/11, I submitted a Personnel Action Request Form to request authorization from Personnel to fill this critical position.**

### **IV. OUTREACH – Refer to attached report**

## **V. GENERAL STATUS**

**&#9679;Meetings with staff members – I continue to meet with individual investigative staff members on a monthly basis to monitor case production.**

**&#9679;Case Closures – Refer to attached report.**

**We ended FY 2010 behind the prior fiscal year's case processing rate.**

**For FY 09, we processed 444 cases; for FY 2010, we processed 402 cases (approx. 10.5% reduction). For the seven-month period from July 2010 through January 2011, the Commission has processed 247 cases (compare to 229 cases processed in this same time period last year).**

**&#9679;Aged Cases – Refer to attached report.**

**&#9679;Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 98. We ended FY 10 with 325 cases in inventory. As of 2/18/11, we had a total of 340 cases in inventory; 41 of those cases were pending assignment.**

**&#9679;Computers – I had reported at last month's Commission meeting that the Commission was in need of a new router to improve internet access, which affects everything from our state email accounts to legal research to interactions with EEOC and HUD through IMS and TEAPOTS. At that meeting, Frank suggested that I**

contact EEOC and HUD to inquire about the availability of grant money to purchase the router (estimated cost: \$6000.00). I am happy to report that, upon receiving my inquiry regarding available funds, HUD informed me that our next contract would include an additional \$6000.00 for the purchase. The recent HUD contract, received and signed by me on September 7, included the \$6000.00 for a new router.

Jay has obtained a formal quote from the State IT department of \$6,193.95 for a new router/hub; this price includes installation. The Commission submitted a purchase order and critical need justification form for Budget Office approval on December 9. Reportedly, Verizon is experiencing delays in filling state purchase orders due to layoffs in December and January.

Respectfully submitted,

Michael D. Évora

Executive Director

Attachments

To: Commissioners

From: Cynthia Hiatt and Frank Gaschen, Legal Counsels

Re: Litigation

Date: February 25, 2011

Recent developments are in bold.

Aquidneck Island v. RICHR, et al.

**This suit was brought by the plaintiff against multiple parties, alleging that liens have been placed on its property improperly. All liens were against Norman Cardinale not Aquidneck. Case is moot now. An offer of \$2500 was made by counsel to the plaintiff to settle all of the claims against Cardinale and his companies. The offer was not satisfactory.**

**Babbitt v. Crescent Park Manor, et al.**

**The Commission intervened as a party plaintiff in this case. A discovery deposition was held. Defendants' Motion for Summary Judgment was denied. Trial this year is more than likely.**

**Bagnall v. RICHR and WLWC et al.**

**The complainant appealed the Commission Decision and Order. The Commission filed the administrative record on April 12, 2006. On April 22, 2008, the complainant's attorney filed his brief. The Commission's Brief was filed on August 27, 2008. The Commission received the respondent's brief on December 5, 2008. In November, 2010, the complainant filed a stipulation to assign the appeal for a written decision by the Superior Court. The appeal was assigned to Justice Netti Vogel.**

**BHDDH (MHRH) v. RICHR and the Estate of Dr. John Satti**

**BHDDH appealed the Commission decision that BHDDH retaliated against Dr. Satti and discriminated against him on the basis of his age. BHDDH filed its Brief on August 7, 2008. On October 21, 2008,**

the Commission filed the administrative record. On January 14, 2009, the Commission filed its brief. The complainant's brief is pending; the complainant's attorney has indicated that she is working on it.

#### **Ezersky v. Rite-Way Forms, Inc.**

On October 8, 2009, the complainant filed a petition to enforce the Commission Order. The petition was granted on October 23, 2009. The complainant's attorney has consulted with Attorney Gaschen. She is working with a collections attorney.

#### **Gaffney v Town of Cumberland et al**

The respondent appealed the Commission decision. In November, 2007, Judge Savage remanded the Commission Decision for the Commission to determine how the Commission would evaluate the evidence, given the conclusions reached in her decision. Judge Savage also asked the Commission to re-assess its Order. After numerous efforts to reach a resolution between the parties, and submissions by the parties in the winter and spring of 2009, the case was taken under consideration by the Commission. A decision in the case issued on March 12, 2010. On April 14, 2010, the respondents appealed. The administrative record was filed in early July, 2010. Justice Gale assigned the new appeal to Justice Savage, in accordance with her order on the previous appeal. The respondents requested and received the investigative materials minus the documents which are cleared according to Commission regulations. The respondents moved to obtain production of cleared documents.

**The Commission objected and filed a memorandum. The motion was heard before Justice Savage on January 21, 2011; she denied the motion. A new briefing schedule was set. The briefs of the Commission and the Gaffneys are due April 21. The parties have agreed on a proposed order which has been signed by Justice Savage. The Town filed its brief on February 18, 2011.**

**J.J. Gregory and Sons v. RICHR and Brenda Zeigler**

**The Commission found that J.J. Gregory and Sons discriminated against Brenda Zeigler because of her sex. J.J. Gregory and Sons filed an appeal. Its appeal was amended to include an appeal of the Commission's Decision on Damages and Attorney's Fees. The Commission filed the record on February 14, 2008. Respondent filed its brief on January 5, 2009. The complainant filed her brief on January 29, 2009. The Commission filed its brief on February 9, 2009.**

**On February 10, 2009, the appeal was assigned to Judge Judith Savage for decision.**

**Laboy v. Stat Health Services, et al.**

**Counsel is trying to locate respondent's officers to bring a suit to enforce the Commission Decision. Corporate charter revoked and the individual defendant cannot be located.**

**Manfredi v. Donna Conway, et al.**

**The respondents appealed the Commission Decision denying the respondent's motion to dismiss on the grounds of qualified immunity.**

**Cross-appeal filed by the Civil Prosecutor relating to the Commission's consideration of reconsideration.**

**RICHR (Lovegrove) v. Escolastico**

**A Rhode Island judgment was obtained and sent to a Florida lawyer for collection. Counsel is waiting for Ms. Lovegrove to forward funds to the Florida counsel to begin Supplementary Proceedings against Mr. Escolastico.**

**RICHR (Martin) v. Cardinale, et al.**

**A complaint alleging a transfer of real estate in violation of the Uniform Fraudulent Transfers Act was filed against Norman Cardinale, et al. Motions for Entry of Default were granted. An offer of \$2500 was made to the plaintiff to settle all of the claims against Cardinale. The offer was not satisfactory.**

**RICHR (Martin) v. Cardinale, et al.**

**A complaint alleging a transfer of partnership interests in real estate in violation of the Uniform Fraudulent Transfers Act has been filed against defendants. Motions to compel will be filed. An offer of \$2500 was made to the plaintiff to settle all of the claims against Cardinale. The offer was not satisfactory.**

**RICHR (Morin) v. Teofilo Silva, et al.**

**A complaint for enforcement was filed on 3-24-05. Service of the**

**complaint will be made once respondent can be located.**

**RICHR (Robinson) v. Geruso, Flagship Management, et al.**

**After a finding of probable cause, a complaint against six defendants was filed in Superior Court alleging racial discrimination in a failure to rent case. The case was settled and HUD notified. RICHR will monitor the case for three years. The first report, due March 19, 2010, was received.**

**RICHR (Wright) v. New Canonchet Cliffs, et al.**

**The Commission found probable cause and the respondents elected in this housing case that alleges failure to give a reasonable accommodation regarding a support animal (the respondents claimed that the dog was too big for a pet). Suit was filed in Washington County Superior Court. Discovery will commence shortly.**

**RICHR (Switzer) v. Principe and TEN SEVENTY EIGHT MAIN**

**The Commission found probable cause and the respondents elected in this housing case that alleges familial status discrimination. Judgment was entered against both defendants. Two parcels of property were levied upon. Discussions with defense counsel to settle stopped. New counsel has filed a motion to remove the default and is discussing settlement.**

**RICHR v. Shear Pleasure**

**This case was filed in the Providence County Superior Court to**

**enforce a negotiated settlement and the defendant was defaulted. Execution was returned unserved as sheriff could not locate the officer of the defendant.**

**RICHR (Zeigler) v. Laura Sitrin, Finance Dir. of Newport**

**The case is resolved. The Commission must annually monitor City training. Training was completed for 2009.**

### **Subpoena**

**A plaintiff in one case has subpoenaed charges in other Commission cases filed against the same defendants. Defendants' counsel has indicated that he plans to file a motion to quash. Commission Counsel has contacted the lawyers representing the parties in the two cases against the same defendants and informed them that the Commission plans to comply with the subpoena.**